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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,235	12/03/2003	Satoshi Okamura	B588-560 (25815.572)	7517
26272 7590 05/15/2009 COWAN LIEBOWITZ & LATMAN P.C. JOHN J TORRENTE 1133 AVE OF THE AMERICAS NEW YORK, NY 10036				
EXAMINER PETERSON, CHRISTOPHER K				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/728,235

Applicant(s)

OKAMURA, SATOSHI

Examiner

CHRISTOPHER K. PETERSON

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 3/11/2009 was filed after the mailing date of the Non-Final Rejection on 12/11/2008. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Amendment

The Amendment After Non-Final Rejection filed on 3/11/2009 has been received and made of record. Examiner notes that the Applicant has cancelled claims 1 – 12 and added new claims 13 - 18. Claims 13 - 18 are pending in this application.

Response to Arguments

2. Applicant's arguments with respect to claims 13 -18 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. Claims 13 – 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As to claim 13, this claim cites:

- a calculation unit that calculates a compensation amount for compensating a loss in exposure amount for said image sensing element caused by delay in closing of said light- shielding unit.
- a control unit that changes the set exposure period based on the compensation amount calculated by said calculation unit if the exposure period is longer than a predetermined period, and changes a gain to be applied to the charge signal based on the compensation amount calculated by said calculation unit if the exposure period is equal to or shorter than the predetermined period.

Applicant's specification teaches in step S305, the system control circuit 109 determines a gain control amount required for compensation on the basis of the uncompensated amount obtained in step S303 and in step S308, the system control circuit 109 determines the electronic shutter speed required for compensation on the basis of the uncompensated amount of gain control, which is obtained in step S306. Applicant's Specification does not teach a compensation amount for compensating a loss in exposure amount for said image sensing element caused by delay in closing of said light-shielding unit. Rather in a shutter control mode the gain is adjusted to keep a correct exposure or a gain control mode where the shutter speed is adjusted to keep a

correct exposure. Examiner will analyze the claims to read a system having a shutter control mode or a gain control mode.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. **Claims 13 - 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (AAPA) (US Patent Pub. # 2004/0119835) in view of Shibuya (US Patent # 5,986,705)**

As to claim 13 AAPA (Fig. 3 and 4) teaches an image sensing apparatus comprising:

- an image sensing element (image sensor 103) that outputs a charge signal in accordance with a light amount of an object image formed on a light-receiving surface (Para 4);
- a light-shielding unit (stop 102) that shields said image sensing element from incident light (Para 4);
- a calculation unit (system control circuit 109) that calculates a compensation amount (correction amount) for compensating a loss in exposure amount (light amount correction) for said image sensing element (103) caused by delay in closing of said light- shielding unit (Para 17);
- a setting unit (image sensing mode selection switch 115) that sets an exposure period of said image sensing element (Para 8);

- a control unit (109) that changes the set exposure period (correction amount of an electronic shutter) based on the compensation amount (closing time information) calculated by said calculation unit (109) if the exposure period is longer than a predetermined period (predetermined timing) (Para 17 and 18).

AAPA does not teach changes a gain to be applied to the charge signal based on the compensation amount calculated by said calculation unit if the exposure period is equal to or shorter than the predetermined period. Shibuya teaches an exposure adjustment apparatus determines, based on the level of a signal of an object converted by a solid state image sensing device, whether the exposure time or the gain is to be decreased, increased or maintained, and controls the gain of an amplifier and the drive pulse to be generated by a drive pulse generator (Abstract). Shibuya (Fig. 3) teaches changes a gain (gain control means 303) to be applied to the charge signal based on the compensation amount calculated (S31) by said calculation unit (exposure judgment means 301) if the exposure period (shorten the exposure time) is equal to or shorter than the predetermined period (exposure time memory device 304) (Col. 7, lines 9 – 61). Shibuya teaches when the exposure time control signal S14 coincides with the shortest exposure time S36 delivered from exposure time memory device 304, and the judgment result S31 is to shorten the exposure time, the exposure time control signal S14 is set at the longest time and the gain control means 303 lowers the gain control signal S13 by one step (Col. 7, lines 35 – 41). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided gain

control method as taught by Shibuya to the method of correcting light amount losses caused by mechanical shutter operation of AAPA, because a compact, vibration-resistant and inexpensive exposure control system, in which the level of output signal is controlled so as the rate of change of the output from the amplifying means, or the solid state image sensing device, is suppressed to be below a certain specific value whenever the brightness of an object changes (Col. 4, lines 28 – 38 of Shibuya).

As to claim 14, Shibuya teaches wherein said calculation unit (exposure judgment means 301) calculates the compensation amount (lengthen) for exposure period (exposure time) if the exposure period (exposure time) is longer than the predetermined period (reference value), and calculates the compensation amount for gain (gain control means 402) if the exposure period (exposure time) is equal to or shorter than the predetermined period (shortest exposure time S36) (Col. 7, lines 9 – 61). Shibuya teaches when the exposure time control signal S14 coincides with the shortest exposure time S36 delivered from exposure time memory device 304, and the judgment result S31 is to shorten the exposure time, the exposure time control signal S14 is set at the longest time and the gain control means 303 lowers the gain control signal S13 by one step (Col. 7, lines 35 – 41)

As to claim 15, Shibuya teaches wherein, if the set exposure period (exposure time) is longer than the predetermined period (reference value) and if the compensation amount calculated by said calculation unit (exposure judgment means 301) is greater than a predetermined amount (reference value), said calculation unit (exposure judgment means 301) calculates a second compensation amount for gain (increase

gain by one step) to be applied to the charge signal based on an excess of the compensation amount over the predetermined amount (reference value), and said control unit (exposure control means 305) changes the exposure period (shortest times) based on the predetermined amount and changes the gain (increase by one step) based on the second compensation amount (Col. 7, lines 9 – 61). Shibuya teaches the exposure time control signal S14 coincides with the longest exposure time and the judgment result S31 is to lengthen the exposure time, the exposure time control signal S14 is set at the shortest time S36 as supplied from exposure time memory device 304 and the gain control means 303 raises the gain control signal S13 by one step (second compensation) (Col. 7, lines 48 – 54).

As to claim 16, Shibuya teaches wherein, if the set exposure period (exposure time) is equal to or shorter than the predetermined period (reference value) and if the compensation amount calculated by said calculation unit (exposure judgment means 301) is greater than a predetermined amount (reference value), said calculation unit (exposure judgment means 301) calculates a second compensation amount for exposure period (exposure control means 305) based on an excess of the compensation amount over the predetermined amount, and said control unit (exposure control means 305) changes the gain (lowers gain by one step) to be applied to the charge signal based on the predetermined amount (reference value) and changes the exposure period (longest time) based on the second compensation amounts (Col. 7, lines 9 – 61). Shibuya teaches the exposure time control signal S14 coincides with the shortest exposure time S36 delivered from exposure time memory device 304, and the

judgment result S31 is to shorten the exposure time, the exposure time control signal S14 is set at the longest time and the gain control means 303 lowers the gain control signal S13 by one step (Col. 7, lines 35 – 41)

As to claim 17, AAPA teaches further comprising an image sensing mode setting unit (115) that sets an image sensing mode, wherein even if the image sensing mode set by said image sensing mode setting unit (115) is an image sensing mode of controlling exposure by keeping an exposure period set by said setting unit (115) (Para 8). Shibuya teaches said control unit (exposure control means 305) changes the set exposure period (exposure time) based on the compensation amount calculated by said calculation unit (301) if the exposure period (exposure time) is longer than a predetermined period (reference value) (Col. 7, lines 9 – 61).

As to claim 18, this claim differs from claim 13 only in that claim 13 is an apparatus claim whereas claim 18 is a method. Thus method claim 18 is analyzed as previously discussed with respect to claim 13 above.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER K. PETERSON whose telephone number is (571)270-1704. The examiner can normally be reached on Monday - Friday 6:30 - 4:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tran Sinh can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/C. K. P./
Examiner, Art Unit 2622
5/15/2009

/Sinh Tran/
Supervisory Patent Examiner, Art Unit 2622